

STANDBY PAY

Policy:

It is the policy of the Adjutant General's Department to establish the time and duration of working hours as required by work load and production flow, customer service needs, the efficient management of human resources, and any applicable law and to comply with State and Federal minimum wage, overtime, recordkeeping, and other requirements.

Comment:

- (1) This policy applies to non-exempt (hourly) employees.
- (2) Employees are eligible for stand-by pay under the following conditions:
 - (a) The period of time is outside an employee's regular work hours*
*If there is a staff shortage during business hours and an employee is on a rearranged work schedule, the employee may be authorized to continue on stand-by status during regular business hours while not at work.
EXAMPLE: An employee has already worked 40 hours by Thursday and is on Stand-by duty for the week. If on Friday, other staff are out-of-town and unavailable to take emergency calls, the employee on Stand-by, as authorized by the supervisor, will continue to take emergency calls even during regular business hours and be compensated the respective Stand-by rate.
 - (b) During this period of time, the employee is required, at agency direction, to remain available to the agency to perform necessary work within a specified response time as determined by program or worksite management;
 - (c) Limited to work situations where a reasonable probability of emergency recall exists.
- (3) Stand-by may be required for employees on a regular, reoccurring basis or "as needed." Examples of potential "as needed" stand-by include, but are not limited, to the following:
 - (a) Predictions of severe weather where employees may be needed to clear ice or snow from the premises and immediately respond to after-hours mechanical breakdowns on drill weekends or second and third shifts.
- (4) At the discretion of the agency, any employee on stand-by who is not available in accordance with the terms and conditions contained in the Agreement for Stand-By Compensation, and who does not present reasonable justification for failure to call and/or report as required when called, may be subject to disciplinary action and forfeiture of stand-by compensation for that stand-by period.
- (5) Employees are not to work more than seven (7) consecutive days in a stand-by status. Occasionally, due to unforeseen circumstances, employees may be required to be in stand-by status for longer than seven (7) consecutive days. However, the maximum number of days in stand-by status shall not exceed 14 days in any twenty-eight (28) day period without prior written approval from the Adjutant General or his designated representative.
- (6) Employees are not to be scheduled for stand-by more than every other weekend. Occasionally, due to

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unforeseen circumstances, employees may be required to be in stand-by status two consecutive weekends. However, the maximum number of weekends in stand-by status shall not exceed two (2) weekends in any twenty-eight (28) day period without prior written approval from the Adjutant General or his designated representative.

- (7) Employees may switch stand-by duty with the prior approval of the respective director or worksite manager (or designee) so long as the switch does not cause either employee to violate (5) and (6) above.
- (8) Employees must notify their supervisor or designee at least 72 hours prior to scheduled stand-by duty if they are unable to perform stand-by duty as scheduled.
- (9) Excessive periods of unavailability for stand-by may be causes for loss of eligibility for stand-by status, at the discretion of the supervisor or designee. Additionally, employees in positions requiring stand-by may also be subject to disciplinary action, including dismissal. (See DISCIPLINARY PROCEDURE)
- (10) Employees on leave are not to be scheduled for stand-by until the employee returns to regular work status. (Regular work status - If authorized leave ends the day before a weekend or holiday, the employee may perform stand-by duties throughout the weekend and/or holiday.)
- (11) Employees relieved of duty pending an investigation (K.A. R. 1-9-19) will not perform stand-by until the investigation is completed and the employee returns to work. In such cases, the director will determine the appropriateness of scheduling the employee for stand-by duty. The agency may permanently or temporarily remove an employee from working stand-by at its discretion. Employees will be provided such notices in writing.
- (12) Compensation Issues will be addressed as follows:
 - (a) Calls or work in excess of seven (7) minutes are compensable and are to be reflected on timesheets.
 - (b) Calls or work of seven (7) minutes or less (de minimis rule) are not compensable unless:
 - (i) They are regular or daily calls or
 - (ii) There are multiple calls with such frequency that it interferes with the employee's personal activities.
 - (c) Employees are to maintain a log (or an approved equivalent) of calls taken and any work performed while on stand-by. This log is to be attached to the corresponding timesheet.
 - (d) Employees are compensated \$1.00 per hour on stand-by in accordance with state regulation 1-5-26, or as provided for in respective labor agreements or unclassified pay plans.
 - (e) Each employee on stand-by who is called in to work shall be compensated for the actual hours worked at the appropriate rate of pay, but shall not be paid stand-by compensation for that time actually worked. EXAMPLE: If an employee works three hours during a 16 hour stand-by period, he/she will receive stand-by pay for 13 hours since the employee is being compensated at their

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appropriate regular pay rate for three hours.

- (f) When an employee on stand-by is “called in” or “called back” to work within a two-hour period of their regular work schedule, the minimum of two hours compensation specified in K.A. R. 1-2-25 of “Call in and call back pay” does not apply.
- (g) Only the hours actually worked by the non-exempt employee shall be credited in determining eligibility for overtime compensation.
- (h) Employees may only be compensated for a maximum of 24 hours in a day. On holidays, employees on stand-by receive Holiday Credit Paid (HDC) for the number of hours they are regularly scheduled to work. Therefore, the maximum number of stand-by hours possible on a holiday is the difference between the number of hours regularly scheduled for that holiday and 24. EXAMPLE: 24-8 hour day=16 hours of stand-by; 24-10 hour day=14 hours of stand-by.
- (i) Time during which an employee is restricted to a particular telephone number at a ‘specific location designated by the employer’, or to the ‘employer's premises’, in order to remain personally available to the employer shall be considered hours worked and the employee shall be compensated at the employee's regular rate of pay instead of receiving stand-by compensation. With the use of wireless communication devices employees on stand-by are able to effectively use their time for their own purposes. It would be rare for employee to be restricted to a specific location and phone where they could not pursue their personal interests.
- (j) If an employee performs stand-by related work, the employee will be compensated for that work in the following priority order unless otherwise determined by the agency:
 - (i) Rearranged time within the same work week (i.e. week, Sun-Sat) as the stand-by was performed.
 - (ii) Compensatory time.
 - (iii) Pay.
- (k) While every effort will be made to meet the needs of the individual, the final determination as to how an employee will be compensated shall be determined by the agency, in its absolute discretion unless otherwise covered under a labor agreement.

Process:

- (1) The respective director or worksite manager (or their designees) determines if stand-by, as defined in State regulation and agency policy, is warranted for a particular situation. If so, a written plan sufficiently describing the reasoning and position(s) involved is submitted to the State Human Resources Office (SHRO).
- (2) SHRO will review the written plan and determine if the employee/position and the reasoning for placing him/her on stand-by is consistent with State intent and agency policy for stand-by.
 - (a) If the SHRO Director approves the written plan an effective date for starting stand-by will be determined by the requesting director or worksite manager (or designee).
 - (b) If the SHRO Director does not believe the plan is consistent with the applicable rules, regulation and

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policies, he/she will respond back to the director within seven (7) business days from the day SHRO receives the request explaining in writing how the plan is non-complaint.

(c) The director or worksite manager may then modify the plan accordingly or make a written request for reconsideration through the SHRO Director to the Adjutant General (or designee) for a final decision.

(3) The Director or worksite manager (or their designees) who have an existing document they would prefer to use for logging stand-by calls and work other than the document provided, must obtain prior approval from SHRO prior to using such a non-standard log.

(4) Prior to beginning stand-by duty, the supervisor or designee will provide an employee with copies of

(a) K. A. R. 1-5-26,

(b) The agency's Stand-By policy,

(c) The approved reporting log,

(d) The Agreement for Stand-By Compensation.

The supervisor will explain those documents and answer any questions from the employee. The supervisor will decide on a reasonable "specified response time" for notification purposes, and enter the response times on the Agreement. When the director approves the Agreement, he/she is also approving the response times.

(5) The employee and supervisor will sign the agreement followed by the director's signature of approval. The director or supervisor will provide a copy of the signed agreement to the employee and submit the original to SHRO for filing in the employee's official personnel file.

(6) The director or worksite manager (or designee) will develop a stand-by schedule in compliance with this policy and inform all affected employees. A courtesy copy should be provided to SHRO to aid in checking timesheets and resolving stand-by discrepancies.

(7) As employees or positions designated for stand-by change, written notification from the director or worksite manager (or designee) is to be sent to SHRO.

(8) While on stand-by, employees are to keep a "Stand-by Log" (or its approved equivalent) and attach it to their timesheet. The supervisor, as with any timekeeping document, will review it for compliance with policy and accuracy; make any necessary corrections and submit it to SHRO.